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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HABAKKUIA MALONE, RICHARD MOYER,
individually and on behalf of all those similarly
situated,

Plaintiffs,

vs.

DEPOSITORS INSURANCE COMPANY,
NATIONWIDE AFFINITY INSURANCE
COMPANY OF AMERICA, NATIONWIDE
ASSURANCE COMPANY, NATIONWIDE
GENERAL INSURANCE COMPANY,
NATIONWIDE INSURANCE COMPANY OF
AMERICA, NATIONWIDE MUTUAL
INSURANCE COMPANY, and DOES 1
through 10,

Defendants.

Case No. 2:21-cv-00574-APG-VCF

STIPULATION TO SET ASIDE ORDER GRANTING DEFENDANTS MOTION TO
DISMISS AND FOR EXTENSION OF TIME TO FILE
RESPONSE TO MOTION TO DISMISS (First Request); ORDER

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1 Pursuant to FRCP 60(b) and Rule IA 6-1 of the Local Rules of Practice for the United
2 States District Court, District of Nevada, Plaintiffs HABAKKUIA MALONE and RICHARD
3 MOYER (“Plaintiffs”) and Defendants, DEPOSITORS INSURANCE COMPANY,
4 NATIONWIDE AFFINITY INSURANCE COMPANY OF AMERICA, NATIONWIDE
5 ASSURANCE COMPANY, NATIONWIDE GENERAL INSURANCE COMPANY,
6 NATIONWIDE INSURANCE COMPANY OF AMERICA, NATIONWIDE MUTUAL
7 INSURANCE COMPANY (“Defendants”), by and through their attorneys, agree as follows:

8 1. Defendants filed a Motion to Dismiss on April 9, 2021 [ECF No. 7].

9 2. Plaintiffs’ response was due on April 23, 2021.

10 3. The parties have agreed that the modification to the briefing schedule will not
11 prejudice any party in this action.

12 4. Before a stipulation to modify the briefing schedule for the motion to dismiss was
13 filed, the Court granted Defendants’ motion to dismiss as unopposed. ECF No. 12.

14 5. The stipulation to modify the briefing schedule would have been the first request.

15 6. The Plaintiffs had mis-calendared the deadline to file their response to Defendants’
16 motion to dismiss for April 30, 2021.

17 7. After close of business on April 23, 2021, Plaintiffs notified Defendants of the
18 calendar oversight and requested an extension to oppose the motion until May 14.

19 8. On April 26, 2021, Defendants agreed to provide an extension through April 30,
20 2021.

21 9. On April 26, 2021, Plaintiffs and Defendants met and conferred regarding an
22 extension beyond April 30, 2021 and Plaintiffs requested an extension up to and including May
23 4, 2021 to file an opposition.

24 10. On the afternoon of April 27, 2021, Defendants agreed to provide an extension up
25 to and including May 4, 2021. The Parties were in the process of submitting a stipulation on the
26 briefing schedule.

27 11. Accordingly, Plaintiffs and Defendants hereby stipulate, pursuant to FRCP 60(b),
28 that the Court vacate and set aside its order granting Defendants’ Motion to Dismiss and grant an

1 order setting a briefing schedule as follows:

2 1. Plaintiffs shall have up to and including May 4, 2021 to file their Response to the
3 Motion to Dismiss;

4 2. Defendants shall have until May 11, 2021 to file their Reply to Plaintiffs' Response.

5 The parties respectfully request that the Court so order.

6 DATED this 28th day of April 2021.

DATED this 28th day of April 2021.

7 **MATTHEW L. SHARP, LTD.**

SNELL & WILMER, L.L.P.

8 /s/ Matthew L. Sharp

/s/ Richard C. Gordon

9 MATTHEW L. SHARP, ESQ.

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14 *Attorneys for Plaintiffs*

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Attorneys for Defendants

15 IT IS SO ORDERED:

16 1. This Court's order granting Defendants' Motion to Dismiss (ECF. No. 12) is set
17 aside and vacated by stipulation.

18 2. Plaintiffs' Response to Defendant's Motion to Dismiss is due on or before May 4,
19 2021;

20 3. Defendants' Reply in Support of its Motion to Dismiss is due on or before May 11,
21 2021.

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23 UNITED STATES DISTRICT JUDGE

24 Case No. 2:21-cv-00574-APG-VCF

25 DATED: April 29, 2021

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CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I hereby certify that I am an employee of MATTHEW L. SHARP, LTD., and that on this date I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to:

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Attorneys for Defendants

DATED this 28th day of April 2021.

/s/ Suzy Thompson
An Employee of Matthew L. Sharp, Ltd.